PROBLEMS IN THE REGULATION OF RENTS FOR ROOMERS AND BOARDERS

by

Karl D. Jaffary, Q.C.

Research Study No. 3

Commission of Inquiry into Residential Tenancies

Toronto

Published by the Commission of Inquiry
into Residential Tenancies, September 1984

Printed in Canada

ISSN - 0823-4418
ISBN - 0-7743-9685-7

Copies of this report are available from
the Ontario Government Bookstore,
880 Bay Street,
Toronto, Ontario
M7A 1N8.
Telephone: 416-965-6015; toll-free 1-800-268-7540;
area code 807, ask operator for Zenith 67200.

The views expressed in this paper are those of the author
and not necessarily those of the Commission.

CONTENTS

Introduction....1
Terms of Reference....1
Sources....1
Problems in Definitions....1
Bachelorettes....2
Problems of Interpreting Data....3
Similar Facilities....4
The Size of the Roomer and Boarder Population....6
City of Toronto Licensing Data....7
Metropolitan Toronto Data....7
Census Data....8
Classifying the Facilities....10
Facilities and Services, Private and Shared....11
The Relationship of the Occupant and the Provider of Facilities....11
Difficulties in Regulation....13
Formality....14
Family Relationship....14
Quality of Service....16
Short-Term Tenancy....17
The Hotel Problem....17
The Therapeutic Problem....18
Possible Solutions to Problems....19
Possible Solution to the Family-Relationship Problem: Exemption....19

Possible Solution to the Family-Relationship Problem: Tenant-Requested Regulation.....21
Possible Solutions to the Formality Problem.....22
Possible Solutions to the Quality-of-Service Problem...23
Possible Solutions to the Difficulty of Short-Term Tenancy.....25
Possible Solutions to the Hotel Problem.....25
Possible Solutions to the Therapeutic Problem.....27
Conclusion.....28
Bibliography.....30

INTRODUCTION

Terms of Reference

This project was commissioned to address two major questions:

1. What are the characteristics of the types of units that are available to roomers and boarders in Ontario?
2. What special practical difficulties exist for effectively regulating rents in this segment of the market?

Sources

In attempting to answer these questions, the writer consulted with staff members of the Community Services Department and the Planning Department of the Municipality of Metropolitan Toronto; the Planning Department and the Building and Inspection Department of the City of Toronto; the Community Information Centre of Metropolitan Toronto; a variety of social service agencies; and the Office of Rent Administration of the State of New York, Division of Housing and Urban Renewal. Some of these groups had publications that proved useful, as did Statistics Canada data from the 1981 census. A bibliography is attached.

Problems in Definitions

The first, and perhaps most serious, difficulty in dealing with the issue of roomers and boarders is caused by the wide variety of definitions in use. It is not simply that the terms "roomer" and "boarder" cover a number of different

kinds of people. The problem is compounded by the fact that many people using one or other of the terms mean something quite precise, but different people mean different things.

There are, for example, at least three different definitions of "room" used in City of Toronto by-laws. Much depends on the purpose for which the definition was drafted. Parts of the zoning by-law (20623) distinguish a bachelor apartment from a room on the basis of plumbing: only if both a kitchen and a bathroom are provided does a space become a "dwelling unit" for the purpose of describing its use under the by-law. On the other hand, the sections of the same by-law that govern the distance between windows and lot lines refer to a "sleeping room", a "living room", a "dining room", and so forth. The occupancy standards by-law (73-68) defines "dwelling unit" so as to include "one or more rooms located within a dwelling and used . . . for human habitation." And the rooming house by-law (502-80) assumes that some "dwelling units" do not have both kitchens and bathrooms, the absolute reverse of the stipulation of the same city's zoning by-law. Alice in Wonderland could not have asked for more.

Bachelorettes

Another problem of definition arises in connection with the sort of very inexpensive, self-contained bachelor apartments that have begun to be called "bachelorettes". During the past ten years, demand for these units has risen in the City of Toronto, and a large number have been constructed in

renovated buildings. What the public seemed to want, or at least what the industry wanted to build, were small, self-contained dwelling units. City by-laws, however, required that such dwelling units have parking associated with them.

As many otherwise suitable buildings did not have sufficient available parking to permit the proposed construction, many bachelorettes were built under permits that designated them as "rooms", rather than apartment units. Generally, the permits were issued on the basis of plans that showed no signs of "culinary facilities". Some landlords subsequently added kitchen sinks to the rooms without applying for or using a permit. In other buildings, residents continue to use their bathrooms for dishwashing.

In almost all these buildings, some food preparation takes place in the individual units. Yet they are listed by the municipal authorities as rooms, and many of them are licensed as such under the rooming-house licensing by-law.

PROBLEMS OF INTERPRETING DATA

Clearly, the bachelorettes in the City of Toronto are very different from what has traditionally been thought of as lodging rooms. Given this sort of variety of definition, one begins to suspect that official statistics on municipally licensed rooming houses are unlikely to give an accurate picture of the number of rooms available.

Another problem of definition -- and hence of interpreting statistics -- occurs with census data. The census takers are much concerned with the people who live in a particular space and their relationship to others in the same space. A "census family" is defined as a husband and wife plus any unmarried children living at home or a single parent and his or her unmarried children. Thus, a single grandparent living with a census family is classed for census purposes as a single, non-family household -- a roomer. Yet this person's living arrangements, like those of the bachelorette dweller, are so different from those of the traditional roomer that the census data are difficult to assess.

Similar Facilities

It is also important to take note of a variety of facilities that appear to offer accommodation very similar to lodging rooms. Some of these facilities may, at least technically, fall under Ontario's present Residential Tenancies Act, some are clearly exempt from it, and some have doubtful status.

A room provided to an elderly parent who lives with a family and pays for food and lodging is technically caught by the Act. Two or three people sharing a house or apartment would be caught if one of them owns the dwelling and collects from the others. If they share housing that one of them rents, the subletting to the others also appears to fall under the Act. Yet it is doubtful whether people in

any of these circumstances tend to comply with Ontario's rent regulations.

Transient living accommodation provided in a hotel is presently exempt from Ontario's rent regulation; the distinction seems to be based on the kind of accommodation rather than the length of stay of a particular transient. New York State, however, regulates hotel accommodation that has been occupied by the same person for more than six months. The Commission of Inquiry into Residential Tenancies may find it important to consider regulation for this type of occupant. Such a change would, however, put some commercial hotels and some residences operated by nonprofit, charitable organizations into an awkward position as they cater to both transients and long-term residents.

Hospitals and nursing homes are exempt from rent regulation; private facilities largely occupied by former psychiatric patients might also be argued to be "living accommodation operated for . . . rehabilitative or therapeutic purposes", although that definition could be open to a great deal of interpretation. What is the "purpose" of "operating" the accommodation? Surely the purpose is often profit, and surely the legislative intent is not to exempt nonprofit operators only. In fact, the legislation is probably intended to catch commercial boarding houses that cater to former psychiatric patients, but in practice these landlords tend not to comply. Perhaps the issue of rent review for these establishments has not come before the courts because the level of social-benefits payments

operates as a form of rent control. The landlords of these boarding houses tend to charge all the money the tenants have available. When social assistance payments rise, so do the charges.

A student residence is another form of housing somewhat similar to rooming or boarding houses. It is exempt from the Residential Tenancies Act if a consultation process is in place between landlord and student organization, whatever that is. Fraternity houses and student co-operatives are also exempt from the City of Toronto's rooming-house licensing by-law. Some housing operated by nonprofit corporations is exempt from Ontario's present rent-regulation provisions because it is subject to a form of rent review by the Government of Canada or an agency thereof. Yet the law catches other limited-dividend accommodation that is equally subject to rent approval by the Government of Canada or the Canada Mortgage and Housing Corporation; it is unlikely, however, that many of these units are rooms.

THE SIZE OF THE ROOMER AND BOARDER POPULATION

The foregoing comments underline the difficulties inherent in using published data to determine how many roomers and boarders there are in Ontario. Set out below are some figures, far from complete and never definitive, that may give some idea of the scope of the issues.

City of Toronto Licensing Data

The City of Toronto, whose population is roughly 8 per cent of that of Ontario, presently has 717 licensed rooming houses and another 200-odd applications pending. Between 1975 and July 1983, rooming-house licences were sought for 1681 different buildings. In August 1983 (the last date on which information was fully tabulated), there were 644 licensed buildings containing 6320 "units". Some of these were apartments, some were bachelorettes, and some were more traditional rooms. For the reasons mentioned earlier, these data are highly suspect as a way of determining the number of actual "rooms" in the city.

It is also significant that assessment data in 1981 identified only 437 rooming houses in the City of Toronto. Perhaps owners did not wish to disclose rented rooms to the assessor. Perhaps the assessor considered some buildings to be apartment houses.

Metropolitan Toronto Data

The Final Report of the Metropolitan Toronto Task Force on Housing for Low-Income Single People (November 1983) attempted to quantify subsidized accommodation, though not the rooming-house population. It identified 447 "mini bachelor" units, 282 Cityhome rooms, and a projected 192 rooms in private charitable buildings, all within the City of Toronto.

The Metropolitan Toronto Community Services and Planning Departments' No Place to Go: A Study of Homelessness in

Metropolitan Toronto (January 1983) reported 1556 people in hostel beds, another 98 turned away from hostels, and a further 1786 with no fixed address. These 3440 people were not roomers or boarders, but a substantial proportion of them probably would have preferred to have been.

Metropolitan Toronto's 1981 assessment records contain an inventory of housing by structure type. It includes rooming houses in its definition of "collectives", of which it listed 1255 in the City of Toronto and 4233 in Metropolitan Toronto. The Metropolitan Planning Department disaggregated this data for rooming houses and found a total of 586 (including the 437 previously mentioned as being in the City of Toronto). The compilers of this study believe the figures to be conservative, particularly because of the problem of identifying rooming houses that contravene local regulations.

Metro Toronto prepared a 1982 inventory of public and private rent-geared-to-income, private nonprofit, and co-op units. There were 50,529 such units available. Of these, 27,237 were for senior citizens; the remainder included only 532 bachelor units (and bachelor was the smallest size shown) or about one per cent of the subsidized housing stock.

Census Data

The 1981 census reported 8,452,975 people in Ontario; 845,400 of them were "unattached individuals". According to census definitions, an "unattached individual" is a person

who is not part of an "economic family" ("a group of two or more persons living in the same dwelling and related to each other by blood, marriage or adoption"). Of those unattached individuals, 774,950 lived with "non-family persons" in a total of 680,555 households, while 70,340 lived with one or two census families. (A "census family" comprises "a husband and wife [with or without never-married children, regardless of age] or a parent with one or more children who have never married, living in the same dwelling".) The census also reported 75,685 unattached individuals who were not part of a household made up solely of unattached individuals. There were probably about 7700 people living in what the census identified as rooming houses.

While it would take a more experienced demographer than the writer to explain all of the distinctions here, it might be fair to think of the data as showing about 80,000 people as Ontario's core population of roomers and boarders who are unrelated to the families with which they live. That estimate does not include people in nursing or old-age homes (about 57,000), hotels, motels, and tourist homes (about 8,600), or schools and other residences (about 5,000).

The foregoing figures come from Statistic Canada's Census Families in Private Households (catalogue no. 92-905), tables 1 and 3; while one hopes for and expects the best of such a source, one notes with dismay a 100,000-person typographical error in the bulletin's Ontario totals (table 1, line 12). This error has been corrected in the data above.

One can also address the issues by turning to the census data in Economic Families in Private Households (catalogue no. 92-937). There we find listed 1,104,460 "non-family persons", 223,610 of them living in a family household and 880,850 in a non-family household. The latter group break down (after correcting another 100,000-person error in line 31) to 611,270 persons living alone and 269,580 living with one or more other non-family persons.

That last 270,000-odd people are the shared-accommodation population. Almost half are between twenty and thirty-four years old. Some 36 per cent are sixty-five or over (compared to 25 per cent of the people living in family households).

CLASSIFYING THE FACILITIES

Some of the differences in the definitions of kinds of housing depend on whether their makers were considering the accommodation or the occupant. The framers of the Residential Tenancies Act looked both at places and at persons. Thus, Section 134(1) exempts a number of kinds of housing because of public ownership, co-operative ownership, or ownership by a religious institution or because of the applicability of other government rent-regulation schemes. Section 4 exempts places that temporarily shelter people in need, places in which care is given, and other places that accommodate particular sorts of people.

In identifying the characteristics of the types of units available, it is helpful to consider them under two sets of variables. First, we can look at the extent of the private and shared facilities and services provided. Second, we can look at who provides the facility or service, who uses it, and any special relationship between provider and occupant, including a therapeutic relationship.

Facilities and Services: Private and Shared

In classifying rooms by the provision of facilities and services, the lowest level is a private bed in a shared room with shared bathroom facilities. (Twenty-five years ago, even the bed might not be private, since flop houses rented beds by the shift. The writer does not know if this form of accommodation is still being offered.) In this or any of other types of rooms, furniture may or may not be supplied, but it generally is. Added shared facilities may include use of a kitchen, lounge, or living room. The most common added services are the provision of linen and of meals.

The Relationship of the Occupant
and the Provider of Facilities

The most common relationship between roomer and landlord is probably that of parent and child. Many elderly people live with their children, and many grown children live with their parents. While these situations appear to come completely within the provisions of the Residential Tenancies Act, it is doubtful if any one of those hundreds of thousands of parents and children has ever bothered to comply with the

Act consciously. Perhaps this is a commentary on the public perception of what ought and ought not to be regulated.

A second large group of roomers comprises the many people living in accommodations whose providers also furnish some measure of care or treatment. Hospitals are an example of this sort of accommodation, though most people would think rent regulation there unnecessary (at least in part because hospital rates are otherwise regulated). The idea of having rent regulation for jails is comical. Beyond those two instances, however, rent regulation for roomers receiving some care may make sense. Many elderly people are accommodated in buildings in which meals are provided and some nursing care may be available. Some such accommodation is in nonprofit institutions and may or may not be managed capably and cost-effectively. Similar accommodations are operated, capably or otherwise, for profit. It is sometimes hard to draw lines between government or nonprofit homes for the aged, private nursing homes, and other forms of private accommodation for the elderly. (Indeed, for newer buildings, one cannot even rely on plumbing to obtain clear distinctions between rooming houses and apartments; in some modern, private buildings for senior citizens, each room is equipped with a small kitchenette for heating snacks and making tea and the operator also provides full meal service in a common dining room.) Elderly occupants may need protection from rent increases caused by government's or nonprofit landlords' mismanagement as much as those caused by private landlords' mismanagement or greed.

Not only the elderly are to be found living in situations bordering on the therapeutic. There are specialized residences for young people and for women who are going through changes in living experiences (often involving recuperation from family violence or psychological problems). Although most of these institutions are designed for relatively short stays, say up to three months, there is nothing inherently treatment-oriented about some of them. Many are designed simply to offer quiet shelter while community re-adjustment takes place. It is hard to devise a test that distinguishes a room in one of them from a room any other lodging house unless the test be the identity of the landlord.

Former psychiatric patients are another group of long-term boarders. Although the residences in which many of them live may be asked to assume some responsibility for administering medication, the situation is simply that of large boarding houses, operated privately. It is difficult to justify their exemption from rent regulation on the grounds of a supposed therapeutic relationship between landlord and roomer.

DIFFICULTIES IN REGULATION

There are certain difficulties characteristic of rent regulation for boarders or lodgers. It is convenient to list them here, assigning to each a short descriptive word or phrase.

The principal difficulties are:

- Formality. The problem of formality is the problem of a landlord's having to keep records and fill out forms when only one or two rooms are involved. The landlord of a very small number of rooms may be so discouraged by the formalities of rent regulation as either to cease renting or to ignore the regulations. It is hard to say at what number of rooms the cut-off point is reached; landlords of single rooms would be the most vexed.

A possible solution to this problem is to provide a highly simplified system for owner-occupied buildings containing, say, fewer than six rental rooms. Another solution might be to subject rooms in certain classes to regulation only after tenant-initiated hearings, an idea that is further discussed below.

- Family Relationship. Many family members who function as each other's landlords and tenants face a dilemma. They may feel, on the one hand, that it is inappropriate for a government to regulate relationships between family members. On the other hand, many people do not wish to disobey a law, even a law enforced only on complaint. Ultimately, the legislature will have to decide whether it wishes to inject rent regulation into family disputes.

Another facet of this problem is that room rents for family members may be badly skewed, up or down, depending on whether the building owner is really subsidizing an elderly parent or a low-income child, or whether the tenant is

deliberately subsidizing the landlord (as in the case of a resident parent who is helping a child to buy a house).

Notice that the family-relationship problem is not unique to the roomer/boarder class of landlord-tenant relationships; many houses have self-contained apartments that are often called "mother-in-law suites". However, a significant proportion of roomers appear to be family members.

Wholesale exemption for related landlords and roomers is an initially appealing solution, but it is far from perfect. How distant a relationship are we talking about? What do we do with the parents of "common law" spouses? If we recognize a social problem in the form of family violence called "granny-bashing", ought we to ignore "granny exploitation"?

Another possibility is regulating certain room rents only at the request of their tenants, an idea that is examined below. But following that route would require addressing some fundamental questions. A basic assumption of most rent-regulation schemes is that at some point in time the rent was "fair" (generally meaning it was based either on market demand or on the cost of supply), and changes in rent are thereafter regulated. However, that assumption is not valid for family rents. Many are deliberately unrelated to market demand or the cost of supply and in that sense are "unfair" to either landlord or tenant. They are often based on need, ability to pay, and parents' sense of obligation to children and vice versa.

The same base rents should not apply to strangers occupying the same spaces, and perhaps they ought not to continue indefinitely to apply to family members if circumstances change. If the regulation of the rent of a particular room were to be initiated by a request, it might be necessary to start with a determination of a fair market rent.

- Quality of Service. The quality-of-service problem arises from difficulties of evaluation. Many of the services provided to roomers and boarders are more or less intangible and hence harder to deal with than the "services" enumerated in Section 1(i) of the Residential Tenancies Act. Services that come to roomers are often more personal and more distinctive than the cable television, elevators, and other matters contemplated by the Act. The more shared facilities or services of varying quality being provided, the worse the problem is.

The quality of landlord-provided meals is probably the best example of this problem: the abilities of the cook can make a great difference in the value of the finished package of accommodation and services, yet one does not wish to see every change in kitchen help precipitate a rent-review hearing. Other examples of arrangements that could be troubling to a rent regulator include the maintenance of furniture, house rules about the use of a shared refrigerator, and a landlord's priority right to pick a T.V. channel.

- Short-Term Tenancy. Administrative difficulties arise in offering rent-regulation protection to any highly transient occupant. Rooms and bachelorette apartments are traditionally offered by the week, and hostel beds rent by the night. Shared accommodation is rarely under lease. Some hotel rooms are occupied by the same tenants for years, and some bachelorettes turn over weekly. Short-term occupancy, when it does occur, makes it easy for landlords to increase rents more often than annually and makes it difficult for tenants to obtain satisfactory redress.

- The Hotel Problem. Hotels are normally exempt from rent control, but some people live in them full time and such occupants look like roomers. The problem is one of protecting those people while leaving most hotel rooms unregulated (or subject only to regulations appropriate to the hospitality industry rather than to a necessity of life). Exactly the same problem arises with certain nonprofit residences. The same room may be occupied by transients for some time and then by someone on a long-term basis.

Since many of these landlords provide linen and/or maid service, whose costs vary with the proportion of transient tenants, it may be entirely appropriate that rates be lower for long-term occupants. Regulation under the present rules would, however, be difficult indeed. The hotel or residence probably keeps comprehensive financial records, not disaggregating the costs associated with rooms rented by

transients from those rented by long-term occupants. The proportion of each type of room being used can vary frequently. Since the characterization of particular rooms may change weekly, the cost and income data available cover all the rooms, not just those one might seek to regulate. If one believes that regulation works well and causes no harm, one would regulate all the rooms. If one believes that regulation should be avoided as much as possible, one would attempt to regulate only those rooms occupied more or less on a permanent basis.

- The Therapeutic Problem. The therapeutic problem occurs when housing is provided along with other kinds of service; it could be looked upon as a specific application of the quality-of-service problem.

The difficulties here are twofold. First, the precise services offered to each tenant may be difficult to define and may vary among tenants. Second, the landlord generally reserves the right to discharge occupants when he or she decides that the services can no longer be usefully or conveniently provided. (For example, people are discharged from hospitals, hostels, half-way houses, therapeutic communities, and homes for the aged.) However, the right to evict capriciously has always been seen as a death blow to rent regulation.

POSSIBLE SOLUTIONS TO PROBLEMS

The foregoing discussion permits us to chart the principal sorts of accommodation that can be classified as rooms and to list the problems that may be associated with attempting to regulate their rents (see Table 1). It also prepares us for a discussion of possible solutions to those problems.

Possible Solution to the Family-Relationship Problem: Exemption

As already mentioned, exemption is an appealing solution to some of the difficulties inherent in regulating room rents. It is really the only solution used in the present Act, in which various sorts of housing that look very much like rooming and boarding houses have been given at least an argument that they are exempt.

One case that has not been exempted is that of persons related by blood, marriage, or adoption to the owner or tenant-in-chief of a housing unit. It can be argued that the public has so entirely ignored rent-review regulation between relatives that it has presented an eloquent argument for exemption. Others may argue that the present system of paper regulations tempered by benign ignorance is effective, but it seems a shame to make law-breakers of hundreds of thousands of citizens.

If any proposed system of regulation involves a requirement of registering units and rents, then the family-relationship problem will become a real aggravation. A room that was rented to an elderly parent at one rate ought not

TABLE 1

Principal Forms of Room Accommodation and
Possible Difficulties in Regulating Their Rents

Name of Accommodation	Description of Accommodation	Description of Services	Users	Possible Difficulties in Regulating
Hostel bed	Private bed; shared room, bath; possibly shared living room	Probably linen; perhaps meals and/or counselling	Homeless people, generally poor	Quality of service Short-term tenancy Therapeutic problem
Boarding house (generally a large, old, house-form building)	Private bed; shared room, bath, lounge, and dining room	Linen, meals, T.V.; perhaps some attempt to administer medication; perhaps counselling.	People with problems, generally poor; former psychiatric patients; people seeking a fresh start	Quality of service Short-term tenancy Therapeutic problem
Room in family home	Private room, shared bath; perhaps shared use of living room and possibly use of kitchen	Probably furnished; probably linen; perhaps meals	Frequently family members; sometimes low-income people without families	Formality Family relationship Quality of service Short-term tenancy
Bachelorette (often rated as a "room" in zoning by-laws)	Private room, bath; some cooking facilities. Few shared facilities	Furnished, no linen; few services	Broad range of people seeking self-contained, inexpensive housing	Short-term tenancy
Hotel or club room	Private room; probably private washbasin, possibly private toilet and bath	Linen; clubs and YM/WCAs have lounge, perhaps athletic and dining facilities	Generally single people of various conditions (some skid-row men live in hotels, some judges live in clubs)	Hotel problem Short-term tenancy Quality of service
Shared accommodation in private home	Private room in house or apartment; shared bath, living room, dining room, and kitchen	Generally furnished. Characteristic is that occupants fully share most spaces, regardless of who owns or leases the dwelling, and treat each other as cordial acquaintances	Broad range of people, generally single, often with financial constraints	Formality Family relationship

to have to be rented to a stranger at the same rate, so registration of such a room, its rent, and the services provided could create a serious difficulty if the same room later came available to the public.

Possible Solution to the Family-Relationship Problem: Tenant-Requested Regulation

A solution to the family-relationship problem that would continue to give some measure of tenant protection would be to exempt rooms rented from family members from the normal system of registration or control but to provide an extraordinary system that would be activated only at the request of a tenant. Under such a system, a tenant-relative who believed himself or herself to be unfairly treated and who did not want to move would be permitted to apply for an order fixing the rent and specifying the services to be provided. The officer hearing the matter would have to note the amounts that had been paid historically but would make a determination on the basis of the owner's costs and the market value of the accommodation and services provided.

It must be recognized that any time such a hearing was precipitated, the rent-regulation process would find itself at the heart of a serious family dispute. The government may not want to put its agency into that position. On the other hand, the provision would probably be used only rarely, and it might occasionally help to redress the helplessness of an aging person with few housing options.

Possible Solutions to the Formality Problem

The formality difficulty has been identified in several recent studies as a significant disincentive to the private supply of much needed rooms. (Of course, many current landlords and roomers in family homes never think of rent review, even if they are not related. Some of those who think of rent regulation find it easy to avoid.)

Once again, the exemption of buildings with some modest number of rooms (two? four? six?) is a possible solution. Many people seem to feel that the intimate situation of one or two roomers in a family home simply does not lend itself to regulation. They make their own rules now, and the present statute has not changed much of that.

Regulation on request by a tenant with no registration and no requirement of continuing regulation beyond that particular tenancy is another possible solution. If one is concerned that the tenant's obligation to request regulation might be too severe a disincentive, one might consider regulating every roomer's rent but leaving the landlord free to fix a new market rent each time a room changes occupants. (That is likely what now happens in many cases.) Such a system would avoid requiring the landlord to file registration documents, and it would permit rooms, as a group, to increase in rent with the market, while protecting individual tenants against excessive increases. Thus, it might be a fair compromise between the conflicting goals of encouraging small landlords and protecting their tenants.

Finally, the formality difficulty might be met by devising some new, less formal procedure to apply to small landlords. In this writer's view, any such procedure should comprise registration that is greatly simplified or waived, a summary hearing on increases without the landlord's having to file financial statements or pre-file vouchers, and perhaps a provision for exceeding minimum rent increases on the consent of the tenant.

Possible Solutions to the Quality-of-Service Problem

The quality-of-service difficulty is more a difficulty of putting in place a backstop to prevent landlords' avoiding the impact of regulation, rather than something flowing from a clear public desire to regulate rooming and boarding house services. There may be a public interest in permitting ancillary services to tenants to be as varied as the characters of the people providing the services. Some landlords are better cooks than others. Some landlords make it clear to roomers that use of the living room, T.V., and periodicals is a privilege, and both landlords and tenants accept those house rules. Ultimately, we hope to foster a climate in which landlords and their roomers and boarders interact in cordial, supportive attitudes of mutual respect. It could be a great mistake to substitute governmental standards of cooking for vigorous consumer reaction.

Quality-of-service difficulties may take two forms. A sudden change in quality is the easier to deal with. One thinks of situations in which a particular tenant is

excluded from a communal kitchen or in which a washer or drier breaks or is removed. It probably should be recognized, however, that even these situations will always be harder to deal with if the number of tenants is small than if the case involves a large building whose tenants have the realistic option of applying to the county court for an abatement in rent based on reduced services.

Perhaps a useful remedy would be to permit a tenant of a rent-regulated room to apply to the rent-review agency in a very summary way for an abatement in rent based on a diminution or withdrawal of service. If the remedy is to be effective, the tenant ought to be able to apply by writing a letter, and the application ought to result in a site visit by a conciliation officer in the hope of avoiding a hearing. Having to take the landlord to county court is not an effective remedy for a roomer.

The second form that a diminution in quality may take is a very gradual reduction, probably caused by the landlord's having financial difficulties. The problems of this form of quality reduction are peculiar to roomers only in that the services they receive may be particularly distinctive or personal. There appear to be no ways around the difficulty of a gradual falloff except those already suggested. It is very hard to prove a diminished quality of meals over a two- or three-year period.

Possible Solutions to the Difficulty of Short-Term Tenancy

The difficulty of short-term tenancies could be solved by the registration of units and their rents and the posting of the approved rent in each unit. Alternatively, it could be solved by abandoning any attempt to regulate the general level of rents in the community and using the system only to protect particular tenants during their tenancies. In the latter case, one might use the simplified procedures already suggested for small operators. If a purpose of regulation is to control the total amounts of rent, then registration of units and posting of their rents would seem the proper course of action.

Possible Solutions to the Hotel Problem

The hotel problem falls into two parts. First, one presumably wants to regulate only those rooms occupied on a long-term, more or less permanent basis. Second, fixing those rents would be difficult because the landlord's cost data covers other units whose cost characteristics differ from those of the units to be regulated.

New York City uses an industry-run rent "stabilization" program that applies to hotel occupancies of more than six months. The system has been subjected to much criticism: the six-month period is thought to be too long, and the system has been said to favour the hotel industry unduly.

An alternate solution for Ontario would be to regulate all hotels, clubs, residences, and other buildings that provide similar accommodation if, say, 10 per cent of the

rooms are occupied by the same persons for periods in excess of, say, two months. The form that regulation would take would have to be somewhat different from that used for apartment buildings. The primary result of the regulating process would be to establish daily, weekly, and monthly rents for each room. In order to deal with the short-term difficulty, it would seem vital that all the units be registered centrally and that at least the monthly rates be posted.

A major problem with this system is that it would involve at least a notional regulation of nightly rates for a number of rooms although there seems no pressing demand for such regulation. Perhaps the regulatory process could make assumptions about the nightly rate without actually legislating it. The weekly rate might also be too short-term to be useful. Perhaps one month would be a reasonable term at which to start control.

Operators of certain nonprofit charitable residences have expressed the view that the mechanics of fixing monthly room rates and allowable increases would have to be distinctive for their form of housing. It is beyond the scope of this paper to suggest mechanisms. If such housing is to be regulated, the operators ought to be given a chance to make submissions concerning the techniques to be used.

Of course, one solution to much of the hotel difficulty would be to exempt all nonprofit operations. One wonders, however, if the absence of a corporate-profit motive would, in the final analysis, produce the most cost-efficient

housing. It is certain that if commercial residences are regulated and nonprofit ones are not, nobody is going to produce any commercial ones. This writer is of the view that nonprofit housing should be encouraged by measurable public subsidy, and that in other respects it should compete as closely as possible with private-sector housing. Nonprofit accommodation should be able to show itself to be cheaper because it is nonprofit, not because it does not have to observe the same constraints and regulations as the competition. That is, however, a personal point of view that fails to ascribe to the absence of profit the moral stamp of approval it is often given.

Possible Solution to the Therapeutic Problem

The therapeutic problem is one of distinguishing institutions that are truely providing therapeutic services from those that are basically providing housing. First, one might adopt a guideline such as is used to distinguish a nursing home from a hospital. In that case, the hours of nursing care each day are measured; in the present case, one might measure the time residents spend each week with therapists of some sort. Guidelines could also involve discharge policy, the availability of OHIP funding, or a host of other possibilities.

Once guidelines are established, it might be advantageous to provide that an institution (other than a public hospital or jail) is covered by rent regulations until it applies to the Commission and obtains an exemption

order. Orders would be issued to institutions that meet the guidelines or provide "equivalent" therapy. The exemption orders would set out the findings and would have to be posted. Interested residents could, no more often than once a year, apply to end the exemption if circumstances had changed from those in the order.

It is worth noting that some near-religious cults are now providing residences and associated therapy. Acolytes give their all. Hearings on the extent of this therapy would not be inappropriate.

CONCLUSION

Roomers, boarders, and people sharing accommodation account for several hundred thousand residents of Ontario. They are a highly diverse group of people. Elderly skid-row derelicts living in shabby hotels and Supreme Court justices living in gentlemen's clubs enjoy almost exactly the same legal status and present the same demographic characteristics. In between are the many people, young and old, who live in rooms owned by members of their families and the many single people who share accommodations. It seems probably that most of these people have behaved as if rent regulation did not apply to them.

When people who share housing admit to being married or "living common law", the census-takers call them a family, and we assume that any disputes about their respective contributions to the family will be decided under the Family

Law Reform Act. If the single people are simply friends or are of the same sex, then we generally treat one as a roomer or boarder.

People in this category of housing seem to have most of the unconventional ways of living, as well as some of the most conventional. The problem is first one of deciding whose rents ought to be regulated. Once that is done, the second stage is one of dealing with a number of problems relating to unconventional housing. This paper is a contribution to that process.

BIBLIOGRAPHY

City of Toronto. Housing Standards By-law 73-68.

_____. Rooming Houses By-law 502-80.

_____. Interdepartmental Task Force on Affordable Housing. 1982. "Interdepartmental Task Force on Affordable Housing Report: The More Efficient Residential Use of Properties in City, Including the Promotion of More Affordable Housing." Toronto, September 24, 1982.

Metropolitan Hotel Industry Stabilization Association, Inc. 1984. Proposed Code. New York: The Association. March 1984.

Metropolitan Toronto. Community Services Department and Planning Department. 1983. No Place to Go: A Study of Homelessness in Metropolitan Toronto: Characteristics, Trends and Potential Solutions. Prepared for the Metropolitan Toronto Assisted Housing Study. Toronto: Metropolitan Toronto Community Services Department, January 1983.

_____. Planning Department. 1983. "Notes on the Supply of Housing for Lower Income Small Households in Metro Toronto." Toronto, May 4, 1983.

_____. Task Force on Housing for Low-Income Single People. 1983. Task Force on Housing for Low-Income Single People: Final Report. Toronto: Metropolitan Toronto Community Services Department.

New York State. Emergency Tenant Protection Act of 1974, Laws of New York 1974. c. 576.

_____. Omnibus Housing Act of 1983 See Emergency Tenant Protection Act, Laws of New York 1983, c. 403.

Statistics Canada. 1981. Census of Canada, 1981. Volume 1: Census Families in Private Households: Persons, Children at Home, Structure and Type, Living Arrangements. Catalogue no. 92-905. Ottawa: Minister of Supply and Services Canada.

_____. 1981. Census of Canada 1981. Volume 1: Economic Families in Private Households: Income and Selected Characteristics. Catalogue No. 92-937. Ottawa: Minister of Supply and Services Canada.